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EXAMINER

SHELEHEDA, JAMES R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/480,011

Applicant(s)

JERDING ET AL.

Examiner

James Sheleheda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/24/05 has been entered.

Claim Objections

2. Claims 4 and 8 are objected to because of the following informalities:

Claim 4, line 2, contains reference to "the location reference" when no previous recitation of this limitation exists. Based upon the claim language, it appears that claim 4, was made incorrectly dependent upon claim 1, and should in fact be dependent upon claim 3.

Claim 8, line 2, was improperly amended to include the limitation of "audio content." It is noted that this claim originally stated "graphical content" and was altered without proper indication.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 13, 15, 16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Matthews, III (Matthews) (5,874,985) (of record).

As to claim 13, Matthews discloses a method for receiving customizable multimedia messages over a television system at a communications terminal for presentation to a user (column 1, lines 9-12), comprising:

configuring a plurality of different message requests (Figs. 4A and 4B; column 5, lines 10-22 and lines 36-43 and column 6, lines 48-53) with respective message content expression (Figs. 4A and 4B; column 6, lines 48-53 and lines 21-25) and respective message configuration expressions (Figs. 4A and 4B; column 6, lines 48-53 and lines 14-21);

configuring a first type of expression to correspond to including in a message request a location reference to retrieve message information (identifying the corresponding message format in memory the set top is to retrieve; column 5, lines 60-67 and column 6, lines 14-18 and lines 44-47);

configuring a second type of expression to correspond to including in a message request message information (containing the message of text, audio or video; column 6, lines 14-25);

receiving at a communication terminal (column 6, lines 12-15) from a multimedia messaging server (application servers, 202a controlling messaging in control node, 12; column 6, lines 12-15 and column 7, lines 26-39) a first message request including a first message content expression (the message of text, audio or video; column 6, lines 14-25) and a first message configuration expression (message format indicator; column 6, lines 14-18);

responsive to receiving the first message request (column 6, lines 30-37), presenting a first message to a user (column 6, lines 48-53) according to the first message content expression (column 6, lines 48-53 and lines 21-25) and the first message configuration expression (column 6, lines 48-53 and lines 14-21);

receiving at the communications terminal (column 6, lines 12-15) from the multimedia messaging server (application servers, 202a controlling messaging in control node, 12; column 6, lines 12-15 and column 7, lines 26-39) a second message request (Figs. 4A and 4B; column 5, lines 10-22 and lines 36-43) including a second message content expression (the message of text, audio or video; Figs. 4A and 4B; column 6, lines 14-25) and a second message configuration expression (message format indicator; Figs. 4A and 4B; column 6, lines 14-18 and lines 10-22); and

responsive to receiving the second message request (Figs. 4A and 4B; column 6, lines 30-37), presenting a second message to a user (Figs. 4A and 4B; column 5, lines

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10-22 and lines 36-43 and column 6, lines 48-53) according to the second message content expression (Figs. 4A and 4B; column 6, lines 48-53 and lines 21-25) and the second message configuration expression (Figs. 4A and 4B; column 6, lines 48-53 and lines 14-21), wherein the second message request includes at least one type of expression different than the type of expressions in the first message request (indications of different format types to utilize; Figs. 4A and 4B; column 5, lines 10-35 and column 6, lines 14-21).

As to claim 15, Matthews discloses wherein the step of presenting a first message includes presenting a message content according to the first message content expression (the message of text, audio or video; column 6, lines 14-25) and the first message configuration expression (message format indicator; column 6, lines 14-18), wherein the first message configuration expression corresponds to the second type of expression (message format indicator; column 6, lines 14-18).

As to claim 16, Matthews discloses wherein the second message configuration expression corresponds to the first type of expression (*message information* indicating the message format; column 6, lines 14-18).

As to claim 18, Matthews discloses wherein the first message content expression corresponds to the second type of expression (the message of text, audio or video; column 6, lines 14-25).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews.

As to claim 17, while Matthews discloses wherein the content expression comprises message information, he fails to specifically disclose a location reference to retrieve message information.

The Examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to transmit a location reference to identify a location from which to retrieve message content, such as utilized by the well known ATVEF standard, for the typical benefit of allowing the receiver to easily locate and display content from sources other than the broadcast provider.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews system to include a location reference to the first message content and delivering the content from the location reference for the typical benefit of allowing the receiver to easily locate and display content from sources other than the broadcast provider.

As to claim 19, while Matthews discloses a content configuration expression in a message request, he fails to specifically disclose wherein an absence of a message configuration expression corresponds to a default message configuration:

The Examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize a default in the absence of a specific signal, whereby the system is to assume the default unless told otherwise; for the typical benefit of allowing the receiver to quickly process incoming messages by using the most common default setting in the absence of any other corresponding command.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews system to include wherein an absence of a message configuration expression corresponds to a default message configuration for the typical benefit of allowing the receiver to quickly process incoming messages by using the most common default setting in the absence of any other corresponding command.

7. Claims 1-11, 20, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Hendricks et al. (Hendricks) (5,559,549) (of record).

As to claim 1, Matthews discloses a method for providing customizable multimedia messages over a television system to a communications terminal for presentation to a user (Fig. 1; column 1, lines 9-12), comprising:

creating at least one message configuration (wherein message formats were created and stored in memory, 68; column 5, lines 60-67);

sending the at least one message configuration to the communication terminal (column 5, lines 60-67);

receiving the at least one message configuration at the communication terminal (wherein the format information is received in some form to be stored in memory; column 5, lines 60-67) at a first clock time (at a time before the messages are transmitted to the terminal; column 5, lines 44-67);

creating a first message activation request (column 5, lines 44-48 and column 6, lines 12-14) for presenting a first message content to the at least one message configuration (column 6, lines 14-21), wherein the first message activation request includes a message content expression (the message of text, audio or video; column 6, lines 14-25) and an identification of the at least one message configuration (message format indicator; column 6, lines 14-18); and

at a second clock time after the first clock time (wherein the format information was stored in memory before the message request was information; column 5, lines 44-67) sending the message request from the multimedia messaging server (column 6, lines 12-15 and column 7, lines 26-39) to the communications terminal over the television system (column 6, lines 30-37).

While Matthews discloses wherein the terminal receives a message configuration (message formats stored in memory, 68; column 5, lines 60-67), he fails to specifically disclose receiving the message configuration from the application server.

In an analogous art, Hendricks discloses a digital television distribution system (Fig. 1; column 2, lines 61-65) wherein a server (operations center, 202; Fig. 1) will generate and transmit message content (column 13, lines 36-55) and configuration information (column 10, lines 37-57 and column 13, lines 51-67) to a home terminal (set top terminals; column 10, lines 37-57 and column 13, lines 51-67) which is stored in the home terminal (column 10, lines 37-57 and column 13, lines 51-67) for the typical benefit of allowing the format information to be updated and changed when desired (column 13, lines 64-67).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include receiving the message configuration from the application server, as taught by Hendricks, for the typical benefit of allowing the format information to be updated and changed when desired.

As to claim 2, Matthews and Hendricks disclose wherein the message content expression comprises the first message content (the message of text, audio or video; see Matthews at column 6, lines 14-25).

As to claims 3 and 4, while Matthews and Hendricks disclose wherein the content expression comprises the content, he fails to specifically disclose a location reference to the first message content and delivering the content from the location reference.

The Examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to transmit a location reference to identify a location

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from which to retrieve message content, such as utilized by the well known ATVEF standard, for the typical benefit of allowing the receiver to easily locate and display content from sources other than the broadcast provider.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Hendricks system to include a location reference to the first message content and delivering the content from the location reference for the typical benefit of allowing the receiver to easily locate and display content from sources other than the broadcast provider.

As to claim 5, while Matthews and Hendricks disclose transmitting the configuration information during a first clock time, they fail to specifically disclose wherein the first clock time corresponds to a time during a boot-up procedure of the communications terminal.

The Examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to transmit updated information to a receiver at boot-up or initialization for the typical benefits of ensuring that a recently activated system has the most current information.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Hendricks system to include wherein the first clock time corresponds to a time during a boot-up procedure of the communications terminal for the typical benefit of allowing the receiver to easily locate and display content from sources other than the broadcast provider.

As to claim 6, Matthews and Hendricks disclose wherein the step of sending the first message activation request includes textual content as at least a portion of the message content expression (see Matthews at column 6, lines 21-25).

As to claim 7, Matthews and Hendricks disclose wherein the step of creating the message request includes creating audio content as at least a portion of the message content (see Matthews at column 6, lines 21-25).

As to claim 8, Matthews and Hendricks disclose wherein the step of creating the message request includes graphical content as at least a portion of the message content (see Matthews at column 6, lines 1-5 and lines 21-25).

As to claim 9, Matthews and Hendricks disclose wherein the step of sending the first message activation request includes sending message content consisting of a ticker tape (see Matthews at scrolling text; Fig. 4B; column 5, lines 30-35).

As to claim 10, Matthews and Hendricks disclose wherein responsive to receiving the first message activation request from the application server (see Matthews at column 6, lines 37-53), the communications terminal provides the first message content to a user according to the at least one message configuration (see Matthews at column 6, lines 37-53).

As to claim 11, Matthews and Hendricks disclose wherein the at least one message configuration corresponds to a default message configuration (see Hendricks at column 13, lines 58-61) and the identification of the at least one message configuration in the first message activation request is according to the absence of a message configuration expression in the first message activation request (see Hendricks at column 13, lines 58-61).

As to claim 20, while Matthews discloses a system for providing customizable messages over a television system to a communications terminal for presentation to a user (Fig. 1; column 1, lines 9-12), comprising:

a multimedia messaging server (Fig. 1; service and application server 202a) that receives (based on decisions of an operator; column 2, lines 67-65, column 3, lines 1-5 and column 7, lines 35-39) at least one message configuration (column 6, lines 14-21) and associates message content (column 6, lines 21-25 and column 7, lines 35-39) for presentation to a user according to the at least one message configuration (column 6, lines 48-53) and generates a request according to the at least one message configuration (column 6, lines 30-37), the request including the message content and a message configuration expression (column 6, lines 12-18) for delivery over a television system to a communications terminal associated with the user (column 6, lines 30-37), wherein the multimedia messaging server is located in a headend (see Fig. 1); and

a multimedia messaging client (Fig. 1; controller 20) that receives the request (column 6, lines 44-47) and associates the message content and the message configuration for presentation of the message content according to the message configuration (column 6, lines 44-53), he fails to specifically disclose multiple application servers that generate at least one message configuration.

In an analogous art, Hendricks discloses a digital television distribution system (Fig. 1; column 2, lines 61-65) wherein a headend (Fig. 1, 208) will receive configuration information (column 10, lines 37-57 and column 13, lines 51-67) from multiple sources (column 8, lines 29-57) and transmit the information to a home terminal (set top terminals; column 10, lines 37-57 and column 13, lines 51-67) through a messaging server (signal processor, 209 processing the signals for transmission; column 8, line 58-column 9, line 22) for the typical benefit of allowing the multiple sources of information to transmit information to the user (column 8, lines 29-57 and column 13, lines 51-67).

Additionally, the examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize servers to receive and process incoming signals, such as in a cable headend, for the typical benefit of receiving and processing transmitted signals through well known and commonly utilized servers.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include receiving the message configuration from the application server, as taught by Hendricks, for the typical benefit of allowing the multiple sources of information to transmit information to the user.

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Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew and Hendricks' system to include to utilize servers to receive and process incoming signals for the typical benefit of receiving and processing transmitted signals through well known and commonly utilized servers.

As to claim 21, Matthews and Hendricks disclose wherein the message configuration expression comprises a location reference (identifying the message format in memory the set top is to retrieve; see Matthews at column 5, lines 60-67 and column 6, lines 44-47) that is utilized by the multimedia messaging client in retrieving the message configuration for use in presenting the message content by the communications terminal (see Matthews at column 6, lines 44-46).

As to claim 24, Matthews and Hendricks disclose wherein the multimedia messaging client (see Matthews at Fig. 2; controller 20) includes a client application (graphics subsystem, 72) and a configuration manager (CPU, 66), wherein the configuration manager provides the client application (see Matthews at column 6, lines 44-46 and column 4, lines 48-52) with the message configuration associated with the message content (see Matthews at column 5, lines 60-67 and column 6, lines 1-5).

8. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Hendricks and Freeman (6,020,980) (of record).

As to claim 25, while Matthews discloses a system for delivery of multimedia messages, comprising:

a multimedia messaging server (service and application servers, 202a) which generates a request (column 7, lines 35-39) that comprises message content (the message of text, audio or video; column 6, lines 14-25 and column 7, lines 35-39) and a message configuration expression (message format; column 6, lines 14-18), wherein the multimedia messaging servers is located in a headend (see Fig. 1), he fails to specifically disclose multiple application servers that generate message content and a database of predefined message configurations and wherein the application server delivers the message content and at least one of the database of predefined message configurations to the multimedia messaging server.

In an analogous art, Hendricks discloses a digital television distribution system (Fig. 1; column 2, lines 61-65) wherein a headend (Fig. 1, 208) will receive content (column 13, lines 36-55) and configuration information (column 10, lines 37-57 and column 13, lines 51-67) from multiple sources (column 8, lines 29-57) and transmit the information to a home terminal (set top terminals; column 10, lines 37-57 and column 13, lines 51-67) through a messaging server (signal processor, 209 processing the signals for transmission; column 8, line 58-column 9, line 22) for the typical benefit of allowing the multiple sources of information to transmit information to the user (column 8, lines 29-57 and column 13, lines 51-67).

Additionally, the examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize servers to receive and process

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incoming signals, such as in a cable headend, for the typical benefit of receiving and processing transmitted signals through well known and commonly utilized servers.

Further, in an analogous art, Freeman discloses a communication system (Fig. 1) wherein a server (fax server, 122) will receive message content to be transmitted (column 8, lines 30-32) and contact a database (subscriber directory, 126) of predefined message configurations (column 8, 33-36 and lines 43-51) to determine the correct file configuration for a particular subscriber (column 8, lines 7-14 and lines 30-36) for the typical benefit of choosing the correct message format in a system ensuring subscribers receive their messages in the format they desire (column 3, lines 23-30).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include receiving the message configuration from the application server, as taught by Hendricks, for the typical benefit of allowing the multiple sources of information to transmit information to the user.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew and Hendricks' system to include to utilize servers to receive and process incoming signals for the typical benefit of receiving and processing transmitted signals through well known and commonly utilized servers.

Further, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew and Hendrick's system to include a database of predefined message configurations, as taught by Freeman, for the typical

benefit of choosing the correct message format to ensure subscribers receive messages in their preferred format.

As to claim 26, Matthews, Hendricks and Freeman disclose wherein the message configuration expression comprises a location reference (identifying the message format in memory the set top is to retrieve; see Matthews at column 5, lines 60-67 and column 6, lines 44-47).

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews as applied to claim 13 above, and further in view of Tanaka (US2003/0115600) (of record).

As to claim 14, while Matthews discloses retrieving the message configuration utilizing the first message configuration expression, wherein the first message configuration expression corresponds to the first type of expression (identifying the message format in memory the set top is to retrieve; column 5, lines 60-67 and column 6, lines 44-47), he fails to disclose retrieving the message configuration from a remote location.

In an analogous art, Tanaka discloses a television broadcast system (Fig. 1) wherein detailed information relating to a program or other data (paragraph 142, lines 1-8) is retrieved from a remote server based upon address information transmitted to the receiver (paragraph 9 and paragraph 10, lines 4-10), for the advantage of allowing the use of a receiver without an large storage means (paragraph 8 and paragraph 11).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews' system to include retrieving the message configuration from a remote location, as taught by Tanaka, for the advantage of allowing the use of a receiver without an large storage means in the current message transmission system.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews and Hendricks as applied to claim 20 above, and further in view of Jennings (5,781,186) (of record).

As to claim 22, while Matthews and Hendricks disclose a message configuration expression for use in presenting the message content by the communication terminal, he fails to specifically disclose wherein the message configuration expression comprises the message configuration.

In an analogous art, Jennings discloses a multimedia messaging system (Fig. 1; column 1, lines 7-8) wherein the presentation of messages is determined by presentation components contained within the message itself (column 1, lines 63-67 and column 2, lines 1-4) for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment (column 2, lines 25-40).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Hendricks system to include wherein the message configuration expression comprises the message configuration,

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as taught by Jennings, for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment to be incorporated into the existing messaging system.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, Hendricks and Freeman as applied to claim 25 above, and further in view of Jennings.

As to claim 27, while Matthews, Hendricks and Freeman disclose a message configuration expression, they fail to specifically disclose wherein the message configuration expression comprises the message configuration.

In an analogous art, Jennings discloses a multimedia messaging system (Fig. 1; column 1, lines 7-8) wherein a created message contains components of both the message (column 1, lines 63-67) and presentation components (which determine how the message is displayed; column 2, lines 1-4) for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment (column 2, lines 25-40).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews, Hendricks and Freeman's system to include wherein the message configuration expression comprises the message configuration, as taught by Jennings, for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment to be incorporated into the existing messaging system.

12. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews and Hendricks as applied to claim 20 above, and further in view of Freeman.

As to claim 23, while Matthews and Hendricks disclose the selection of a message configuration by the multimedia server, they fail to specifically disclose a database of message configurations accessible by the messaging server.

In an analogous art, Freeman discloses a communication system (Fig. 1) wherein a server (fax server, 122) will receive message content to be transmitted (column 8, lines 30-32) and contact a database (subscriber directory, 126) of predefined message configurations (column 8, 33-36 and lines 43-51) to determine the correct file configuration for a particular subscriber (column 8, lines 7-14 and lines 30-36) for the typical benefit of choosing the correct message format in a system ensuring subscribers receive their messages in the format they desire (column 3, lines 23-30).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew and Hendricks' system to include a database of predefined message configurations accessible by the messaging server, as taught by Freeman, for the typical benefit of choosing the correct message format to ensure subscribers receive messages in their preferred format.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews and Hendricks as applied to claim 1 above, and further in view of Davis et al. (Davis) (5,822,123).

As to claim 12, while Matthews and Hendricks disclose creating a second message activation request for presenting a second message content to the user according to the at least one message configuration (see Matthews at Figs. 4A and 4B; column 5, lines 10-22 and lines 36-43 and column 6, lines 14-18 and lines 10-22), and presenting a second message content to the user according to the at least one message configuration (see Matthews at Figs. 4A and 4B; column 5, lines 10-22 and lines 36-43 and column 6, lines 48-53 and lines 14-21), they fail to specifically disclose creating a message at the communications terminal.

In an analogous art, Davis discloses a broadcast receiver (Fig. 1; column 8, lines 66-column 9, line 20) which will create a message to be displayed to the user (column 21, lines 24-34) when the user tunes to a channel they are not subscribed to (column 21, lines 24-34) for the typical benefit of allowing users to see and order additional channels and programming they are not currently subscribed to (column 21, lines 21-34).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew and Hendricks' system to include creating a message at the communications terminal, as taught by Davis, for the typical benefit of allowing users to see and order additional channels and programming they are not currently subscribed to receive.

Response to Arguments

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14. Applicant's arguments with respect to claims 1-12 and 20-27 have been considered but are moot in view of the new ground(s) of rejection.

15. Applicant's arguments filed 02/24/05, with regards to claims 13-19, have been considered, but are not persuasive.

On pages 15 and 16 of applicant's response, applicant argues that Matthews does not disclose receiving a second message request and presenting a second message to the user.

In response, Matthews clearly discloses receiving different messages over time regarding different topics (Figs. 4A and 4B; column 2, lines 65-column 3, line 5, column 5, lines 10-22 and 50-55). The transmission of a plurality of messages to a user station inherently reads upon the claimed second message.

Conclusion

16. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents

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P.O. Box 1450
Alexandria, VA 22313-1450

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(Date)

Typed or printed name of person signing this certificate:

Signature: _____

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda
Patent Examiner
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JS


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